

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KALOM MCCOY,

Petitioner,

v.

GENA JONES, Warden,

Respondent.

No. 2:23-cv-0902 DAD CSK P

ORDER

Petitioner, a state prisoner, proceeds through counsel with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 17, 2024, this action was stayed pending exhaustion of state court remedies with respect to petitioner's ineffective assistance of counsel claim pursuant to Kelly v. Small, 316 F.3d 1063 (9th Cir. 2003). (ECF No. 21.) On February 27, 2025, petitioner filed a motion to lift stay and asked the Court to direct petitioner to file a second amended petition. Good cause appearing, the stay of this action is lifted, and petitioner is granted thirty days to file a second amended federal petition containing all exhausted grounds. Petitioner's arguments concerning relation back are premature and will not be addressed at this juncture.

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's motion to lift the stay of this action (ECF No. 22) is granted.

2. The stay of this action is lifted (ECF No. 21).

3. The Clerk of the Court is directed to re-open this action.

4. Petitioner is granted fifteen days to file a second amended petition raising all exhausted claims.

5. Sixty days after petitioner files the second amended petition, respondent shall file a response. See Rule 4, 28 U.S.C. foll. § 2254. An answer shall be accompanied by all transcripts and other documents relevant to the issues presented in the petition. See Rule 5, 28 U.S.C. foll. § 2254.

6. If the response to the second amended habeas petition is an answer, petitioner's reply, if any, shall be filed and served within thirty days after service of the answer.

7. If the response to the second amended habeas petition is a motion, petitioner's opposition or statement of non-opposition to the motion shall be filed and served within thirty days after service of the motion, and respondent's reply, if any, shall be filed and served within fourteen days thereafter

Dated: April 1, 2025

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CHI SOO KIM  
UNITED STATES MAGISTRATE JUDGE